

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

VINCENT LUPPINO, CLIFF STERN,  
JOHN CASIERO, and NOEL J. SPEIGEL,

Plaintiffs,

v.

MERCEDES-BENZ FINANCIAL  
SERVICES USA, LLC,

Defendant.

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Case Number 13-50212

Honorable David M. Lawson

Magistrate Judge Laurie J. Michelson

**ORDER ADOPTING REPORT AND RECOMMENDATION AND  
GRANTING IN PART MOTION TO ENFORCE SUBPOENA**

Presently before the Court is the report issued on April 11, 2013 by Magistrate Judge Laurie J. Michelson pursuant to 28 U.S.C. § 636(b), recommending that the Court grant in part the plaintiffs' motion to enforce subpoena. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed thus far. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt. #9] is **ADOPTED**.

It is further **ORDERED** that the plaintiffs' motion to enforce subpoena [dkt. #1] is **GRANTED IN PART** and **DENIED IN PART**.

It is further **ORDERED** that the plaintiffs' request to enforce the subpoena as to wheel and tire insurance information is **DENIED**. The defendant need not respond to the requests for discovery on the subject of wheel and tire insurance.

It is further **ORDERED** that, after a search of the defendant's customer database for the terms "wheel" and "rim," the defendant shall produce all responsive records **on or before May 10, 2013**.

It is further **ORDERED** that the defendant shall produce information regarding communications between the defendant and any customer or dealer from 2006 to the present regarding CPO vehicles with wheel or tire defects, to the extent that any such communications can be located through a search of electronically stored information. The parties shall promptly meet and confer to reach an agreement as to the scope of the search to be performed and the protocol for conducting the search and producing responsive records. If the agreed upon search produces no records, then the defendant shall produce a sworn affidavit to that effect. The defendant shall produce either the responsive records or an affidavit **on or before May 30, 2013**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: April 30, 2013

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 30, 2013.

s/Deborah R. Tofil  
DEBORAH R. TOFIL